Dr. A. R. Menon *(Minister for Rural Development):* I think the non-official Bills will all be over by this afternoon. In that case only for the sake of resolutions, I don't think there is any necessity to continue the session tomorrow.

Mr. President: If necessary you can sit till 5-30 or 6 p.m. today.

Mr. C. R. Iyyunni *(Trichur-South):* Probably it would be enough if one day more is allotted for non-official business during the Budget Session.

Mr. President: For the next Budget Session, Government have got some very important legislation, *e.g.*, the Income-tax Bill. In view of that, I cannot make any commitment now about the Budget Session. There are only three or four Bills, and you can sit till six o'clock, if necessary. Anyhow, I have absolutely no objection if the House decides to sit tomorrow. You can decide it at the time the House is adjourned this evening.

The House rose for lunch at 1-15 p.m., and reassembled at 2-45 p.m. with M. R. Ry. K. Ayyappan Avl., Deputy President, in the Chair.

Mr. V. K. Bhaskara Menon *(Cranganur):* Sir, I move for an adjournment of the business of the House. The attendance seems to be very scarce and the members seem to be tired after a strenous session.

Mr. Shabdai S. Koder *(Jews-Nominated):* I second it.

Deputy President: The House cannot come to a decision in this matter very easily. It will affect the rights of individual members. Certain hon'ble members have got Bills in their names. Therefore, we will have to get their consent first and after that, if the House is unanimously for it, I have no objection.

Mr. V. K. Bhaskara Menon *(Cranganur):* Most of the members are wandering about the lobbies. I think the members present here will agree to my suggestion.

Mr. M. K. Devassy *(Adur):* Since much of our non-official time has been taken away by Government Bills, I think it will be improper if we adjourn at this stage.

The Cochin Land Acquisition Act (Amendment) Bill

Mr. A. V. Moothedan *(Chalakkudi):* Sir, I move that the Cochin Land Acquisition Act (Amendment) Bill be read in Council. This Bill relates to the apportionment of compensation when *kanam* lands are acquired by Government. Now the law relating to this question of apportionment is contained in the High Court decision reported in 12 Cochin 237. There it was decided that when *kanam*

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lands are acquired by Government, after setting apart the capitalised value of *michavaram* and the landholder's share of the value of improvements to the landlord and then the tenant's share of the value of the improvements to the tenant and also his *kanam* amount, the balance will be divided in the ratio of 1:1.

Mr. P. Govinda Menon *(Mulakunnathukavu):* You illustrate it by an example.

Mr. A. V. Moothedan *(Chalakkudi):* Suppose the Government acquires a *kanam* land. There is a house in it and there are some cocoanut trees belonging to the landlord. The land evidently belongs to the *jenmi*. How is the value of compensation to be apportioned? According to the existing law in 12 Cochin 237 it is like this. Suppose the *michavaram* payable is Rs. 5. Twenty-five times that *michavaram*, *i.e.*, Rs. 125 will be given to the *jenmi*. Then the value of his improvements, that is the value of the cocoanut trees will also be given to him. The *kanam* amount will be given to the tenant. The value of the house will also be given to him. If the amount of acquisition is Rs. 1,000 and if Rs. 400 is distributed between the *jenmi* and tenant as above, the balance of Rs. 600 will be divided equally between the tenant and the *jenmi*. That is the existing law. What I want by this amendment is to change the law in such a way that the balance remaining, *i.e.*, Rs. 600 should be distributed in the proportion of 1:4 or $\frac{1}{4}$ to the *jenmi* and $\frac{3}{4}$ to the tenant. The reason for this is this. 12 Cochin decision was passed some 20 years ago before the present Tenancy Act was passed. At that time many of the *kanams* were redeemable. But by the passing of the Tenancy Act of 1113 most of the *kanams* have become irredeemable. Therefore, the *jenmy's* right is only to get the renewal fees and also the *michavaram*. They have no other right. The right of the *jenmi* is very much diminished and the right of the tenant has very much increased. Therefore, my submission is that the above High Court decision requires revision in the light of modern conditions.

Mr. P. Govinda Menon *(Mulakunnathukavu):* Is the 12 Cochin case regarding redeemable or irredeemable *kanam*.

Mr. A. V. Moothedan *(Chalakkudi):* Whatever it may be, I am not going to be guided by that. The law requires to be amended, in the light of modern conditions. I am surprised that this morning the very good suggestion of Mr. Mathai was defeated. It was followed in Travancore; but here only 5 people voted for it. I am sure the fate of my Bill will also be like that. I commend this motion to the acceptance of this House.

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Mr. V. K. Krishnankutty *(Ezhuvas-Trichur):* I second it.

Mr. K. Achyuta Menon *(Secretary to Government):* As the Law Member is not here I will speak on the Bill. The Bill is an attempt to deprive the *jenmi* of what he gets in lieu of his properties when they are acquired by Government. That is unavowedly or unabashedly the object of this Bill. There is no pretence or mincing the matter.

Mr. V. K. Bhaskara Menon *(Cranganur):* Without interruption, will the Hon'ble Secretary to Government kindly re-iterate what the hon'ble mover said. I was not able to follow what he was saying.

Mr. K. Achyuta Menon *(Secretary to Government):* I will not only re-iterate his idea but I will also repeat his words. I will just convince you that I was listening if that is your object. The hon'ble mover in explaining the Bill said that the existing law is contained in 12 Cochin. He said, whatever might be the justification for the decision in 12 Cochin, it no longer existed now that the *kanams* have become irredeemable. He seems to think that the conception of *kanam* has undergone a change. *Kanams* are now irredeemable. He points out that because of the incidence of irredeemability there is nothing more to be paid to the *jenmi*. That was his argument. There were some irrelevant observations with regard to Travancore. That was the argument of the mover and I have clearly understood it.

Mr. V. K. Bhaskara Menon *(Cranganur):* It was not a case of your not understanding it. I could not understand the hon'ble member.

Mr. K. Achyuta Menon *(Secretary to Government):* You were asking me to do the work of commentator to the hon'ble member. Then I would have declined the honour. It is none of my concern and it is outside the scope of my legitimate duty.

I have followed the argument of the hon'ble mover. He was referring to the decision in 12 Cochin but I may say that that case also related to an irredeemable *kanam*. Their Lordships said that in case of irredeemable *kanams*, the *kanamdars* have also got substantial rights to the same extent at least that of the *jenmies*. What does the *jenmi* get in a *kanam*? He gets his *michavaram*. What does the tenant get. He gets the value of his improvements and his *kanam* amount. In the case of an acquisition the money came into Court representing the value of the property. Out of that money the first thing that the Court said is, give to the tenant his value of the improvements and give him also the *kanam* amount. Then the *jenmi* has lost his right to receive the *michavaram*. We

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have to see what it is. Unfortunately, there is not a set method of calculating it. Then the law said, apply the principle of purchase of properties; *i.e.*, 25 times the yield, and that was given to the *jenmi*. Then there remained a portion of the money. To whom did it belong? Undoubtedly to the owner of the properties. But the tenant is not evictable so long as he pays the *michavaram* regularly. The landlord had also several other rights beyond that of receiving *michavaram*. I have explained all these in connection with Mr. Mathai's Bill. He could take his properties for his own use. He could enhance the *michavaram*.

Mr. A. V. Moothedan *(Chalakkudi):* May I know how many cases of this nature have arisen?

Mr. K. Achyuta Menon *(Secretary to Government):* That will depend upon the person who tries to enforce it. The right is there.

Mr. A. V. Moothedan *(Chalakkudi):* Imaginary rights of not practical value!

Mr. K. Achyuta Menon *(Secretary to Government):* The right is given by statute. It is not imaginary. On the other hand, there was the tenant also who has got the right of sticking on to the property so long as he paid the rent. Their Lordships said, we will give half and half. We will imagine both are co-owners of the property. The hon'ble member now says, don't give the *jenmi* anything. Give all the balance to the tenant. In other words, what the *jenmi* gets is only 25 times the *michavaram*. Every other right belongs to the tenant. The question is, can the House agree to such a piece of legislation. It is not a simple Bill. There are very grave implications. I am constrained to oppose the Bill.

Mr. K. Kochukunhan Kaimal *(Vadakkancheri):* Sir, I oppose the Bill. Of course, the Government Secretary has explained the implications of the Bill in all its aspects. I must say that this Bill is a highly expropriatory measure which even takes away the entire rights of the *jenmi*. A large portion of the bundle of rights which the *jenmi* has are being taken away by Act after Act. The present Bill is to exterminate the *jenmi* altogether. It says, hereafter you have no right. I am the owner of the whole property. Your right is only to get a *michavaram*. You receive it. All other rights belong to the tenant. In the statement of objects and reasons it is said that the idea regarding relationship of the *kanam* tenant and *jenmi* has actually undergone changes, so much so the tenant has now become the landlord and the landlord has become the tenant to be left at the mercy of the latter. That is certainly a measure which takes away what little the *jenmi* has got.

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Mr. C. V. Iyyu *(Kunnamkulam):* On a point of Order, Sir, may I know whether members of the Legislative Council are permitted to sit in the President's gallery when the House is in session. I see the Hon'ble Member for Mattancheri sitting there.

Deputy President: I remember, a similar point of order was raised in the Legislative Assembly. Members are not allowed to sit in the President's gallery.

(Mr. A. B. Salem who was at that time sitting in the President's gallery vacated it and assumed his seat inside the Council).

Mr. K. Kochukunhan Kaimal *(Vadakkancheri):* Now the acceptance of the principle underlying this Act and the implications contained therein would be to take away some of the rights of the *jenmi* which are now given by this legislature. The right of eviction under certain circumstances is one granted by this Council. The effect of this would be to take away his rights. If this Bill is accepted the *jenmi* has no more right except to receive *michavaram* and impliedly it would go to take away all the other rights of the *jenmi*. So much so the *jenmi* is reduced to the position of one who gets only this petty *michavaram* every year. Even for this the *jenmi* has to go to Court. So, I submit that this law is highly detrimental to the interests of the landlord, and that it is a measure of an expropriatory character which cannot be sustained on any grounds.

Mr. K. Ashtamoorthi Nambudiripad *(Land-holders):* Sir, I also oppose the Bill. I have nothing more to add than what has been stated by Mr. Kaimal.

*മിസ്റ്റർ സി. ഇൻ. ഇട്ടിരവി നമ്പൂതിരി: സർ, ഞാനും ഈ ബില്ലിനെ എതിക്കുന്നു. ലാൻഡ് അക്വിസിഷൻ നിയമം ഉണ്ടാക്കിയ കാലത്തു് ഭൂമിയിൽ ചമയങ്ങളും ഉണ്ടാക്കിയ കുടിയാനു് കുഴിക്കുറ ചമയങ്ങളുടെ വിലയിൽ പകുതി കൊടുക്കുകയും ബാക്കിയുള്ള പകുതി ജന്മിക്കു കൊടുക്കുകയു ഃവേണമെന്നു വെച്ചു. കുറച്ചു കഴിഞ്ഞപ്പോൾ അതിൽ മുക്കാൽ ഭാഗം കുടിയാനു കൊടുക്കുക, ബാക്കിയുള്ളതു ജന്മിക്കു കൊടുത്താൽ മതിയെന്നു തീരുമാനിച്ചു. ഞാൻ ഇന്നാലെ പറഞ്ഞ പോലെ മുഴുവനും കുടിയാനെയുള്ളു എന്നു വെച്ചാൽ ഇങ്ങിനെയുള്ള നിയമങ്ങൾ കൊണ്ടുവരേണ്ട ബുദ്ധിമുട്ടു വരികയില്ല. കുടിയാനെറ ജന്മിയെന്നു പറഞ്ഞാലും തരക്കേടില്ല ഒരാളുടെ ജന്മം വേറെ ഒരാൾക്കു കൊടുക്കുന്നതു ശരിയല്ല. മിച്ച വാരം കിട്ടുവാനുള്ള അവകാശമേ ജന്മിക്കുള്ളു എന്നു പറഞ്ഞാൽ ബുദ്ധിമുട്ടൊക്കെ തീരും. ഏതായാലും ഈ ബിൽ ഈ വിധം പാസാക്കുന്നതു ശരിയല്ല.

Mr. A. V. Moothedan *(Chalakkudi):* Sir, I listened with great interest to the arguments advanced by the Chief Secretary and my friend Mr. Ittiravi Nambudiri. There was a fallacy in the argument of the Chief Secretary. He said, apart from receiving the *michavaram*, the *jenmi* has got substantial rights; for instance, he can

*Speech not corrected by the hon'ble member.

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evict in certain cases or enhance the *michavaram* or take the property for his own use. They are all illusory rights. Whatever it may be, that is not relevant to the point. When the land is acquired by the Government all these questions of future use or enhancement of rent cannot arise. He cannot evict the tenant also.

Mr. P. Govinda Menon *(Mulakunnathukavu):* Then why should you give the capitalised *michavaram*?

Mr. A. V. Moothedan *(Chalakkudi):* Because the *jenmi* is already receiving it. You assume certain things. All these consequences will not arise. Then it was stated that the rights of the *jenmi* are taken away by successive legislation and in the words of the Hon'ble Member for Anthikkad it is better to abolish them altogether. I say there is nothing expropriatory in this Bill. I shall read the clause in the Bill.

Mr. P. Govinda Menon *(Mulakunnathukavu):* Not very necessary.

Mr. A. V. Moothedan *(Chalakkudi):* In the case of lands held under *kanam*, as defined under the Cochin Tenancy Act of 1113, one-fourth of the value of the land and the whole of the value of improvements made by the landlord shall be awarded to him and to the *kanam* tenant three-fourths of the value of the land and the whole of the value of improvements made by him. What is there expropriatory in this? If you think that you are living 30 years ago you may be right. But we are now in 1116. The idea of the relationship between the landlord and the tenant has totally changed.

Mr. P. Govinda Menon *(Mulakunnathukavu):* What are the changes?

Mr. A. V. Moothedan *(Chalakkudi):* It is well known. I have explained it already and I am not going to answer that question.

Mr. K. Achyuta Menon *(Secretary to Government):* He is only answering my fallacy. *(Laughter).*

Mr. A. V. Moothedan *(Chalakkudi):* My submission is, the opposition has not made out a reasonable case for opposing the measure. According to modern times the Bill has to be accepted. I request the House to pass the motion.

Motion put and lost

The Cochin Civil Rights Protection Bill

Mr. M. K. Devassy *(Adur):* Mr. President, Sir, I rise to move for the introduction of the Cochin Civil Rights Protection Bill.

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